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# ESTABLISHES NEW STANDARDS FOR CONFINEMENT OF CERTAIN FARM ANIMALS; BANS SALE OF CERTAIN NON- COMPLYING PRODUCTS. INITIATIVE STATUTE

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The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**ESTABLISHES NEW STANDARDS FOR CONFINEMENT OF CERTAIN FARM ANIMALS; BANS SALE OF CERTAIN NON-COMPLYING PRODUCTS. INITIATIVE STATUTE.** Establishes new minimum space requirements for confining veal calves, breeding pigs, and egg-laying hens; requires egg-laying hens be raised in cage-free environment after December 31, 2021. Prohibits certain commercial sales of specified meat and egg products from animals confined in non-complying manner. Defines sales violations as unfair competition. Creates good faith defense for sellers relying upon written certification by suppliers that meat or animal products comply with new confinement standards. Requires State of California to issue implementing regulations. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **Potential decrease in state and local tax revenues from farm businesses, likely not to exceed the low millions of dollars annually. Potential state costs ranging up to ten million dollars annually to enforce the measure.**

(17-0026.)

August 29, 2017**VIA PERSONAL DELIVERY**

Hon. Attorney General of California  
1300 I Street, 17th Floor, P.O. Box 944255  
Sacramento, CA 95814

**RECEIVED****AUG 29 2017**

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Attention: Ashley Johansson, Initiative Coordinator

Re: Request for Title and Summary for Proposed Initiative Statute

Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, I hereby submit the attached proposed Initiative Statute, entitled "The Prevention of Cruelty to Farm Animals Act," to your office and request preparation of a title and summary of the measure as provided by law. Included with this submission are the required proponent affidavits signed by the proponent of this measure pursuant to Sections 9001 and 9608 of the California Elections Code. My address as a registered voter is attached to this letter, along with a check for \$2,000.00.

All inquiries or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Gross & Leoni, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Kurt Oneto (telephone: 916/446-6752).

Thank you for your assistance.

Sincerely,



Cheri Shankar, Proponent

Enclosure: Proposed Initiative Statute

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** This Act shall be known and may be cited as the Prevention of Cruelty to Farm Animals Act.

**SECTION 2.** The purpose of this Act is to prevent animal cruelty by phasing out extreme methods of farm animal confinement, which also threaten the health and safety of California consumers, and increase the risk of foodborne illness and associated negative fiscal impacts on the State of California.

**SECTION 3.** SECTION 25990 OF THE CALIFORNIA HEALTH AND SAFETY CODE IS HEREBY AMENDED TO READ:

In addition to other applicable provisions of law,;

~~(a) a person~~ A farm owner or operator within the State of California shall not tether or confine knowingly cause any covered animal, to be confined in a cruel manner. on a farm, for all or the majority of any day, in a manner that prevents such animal from:

~~(a) Lying down, standing up, and fully extending his or her limbs; and~~

~~(b) Turning around freely.~~

(b) A business owner or operator shall not knowingly engage in the sale within the State of California of any:

(1) Whole veal meat that the business owner or operator knows or should know is the meat of a covered animal who was confined in a cruel manner.

(2) Whole pork meat that the business owner or operator knows or should know is the meat of a covered animal who was confined in a cruel manner, or is the meat of immediate offspring of a covered animal who was confined in a cruel manner.

(3) Shell egg that the business owner or operator knows or should know is the product of a covered animal who was confined in a cruel manner.

(4) Liquid eggs that the business owner or operator knows or should know are the product of a covered animal who was confined in a cruel manner.

**SECTION 4.** SECTION 25991 OF THE CALIFORNIA HEALTH AND SAFETY CODE IS HEREBY AMENDED TO READ:

For the purposes of this chapter, the following terms have the following meanings:

(a) "Breeding pig" means any female pig of the porcine species kept for the purpose of commercial breeding, who is 6 months or older or pregnant.

(b) "Business owner or operator" means any person who owns or controls the operations of a business.

(c) "Cage-free housing system" means an indoor or outdoor controlled environment for egg-laying hens within which hens are free to roam unrestricted; are provided enrichments that allow them to exhibit natural behaviors, including, at a minimum, scratch areas, perches, nest boxes, and dust bathing areas; and within which farm employees can provide care while standing within the hens' usable floor space. Cage-free housing systems include, to the extent they comply with the requirements of this subsection:

- (1) “Multi-tiered aviaries” in which hens have access to multiple elevated platforms that provide hens with usable floor space both on top of and underneath the platforms;
- (2) “Partially-slatted systems” in which hens have access to elevated flat platforms under which manure drops through the flooring to a pit or litter removal belt below;
- (3) “Single-level all litter floor systems” bedded with litter, and in which hens have limited or no access to elevated flat platforms; and
- (4) Any future systems that will comply with the requirements of this subsection.
- ~~(a)~~(d) “Calf raised for veal” means any calf of the bovine species kept for the purpose of producing the food product described as veal.
- (e) “Confined in a cruel manner” means any one of the following acts:
- (1) Confining a covered animal in a manner that prevents the animal from lying down, standing up, fully extending the animal’s limbs, or turning around freely; or
- (2) After December 31, 2019, confining a calf raised for veal with less than 43 square feet of usable floor space per calf; or
- (3) After December 31, 2021, confining a breeding pig with less than 24 square feet of usable floor space per pig; or
- (4) After December 31, 2019, confining an egg-laying hen with less than 144 square inches of usable floor space per hen; or
- (5) After December 31, 2021, confining an egg-laying hen with less than the amount of usable floor space per hen required by the 2017 edition of the United Egg Producers’ Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing, or in an enclosure other than a cage-free housing system.
- ~~(b)~~(f) “Covered animal” means any ~~pig during pregnancy~~, calf raised for veal, breeding pig, or egg-laying hen who is kept on a farm.
- ~~(e)~~(g) “Egg-laying hen” means any female domesticated chicken, turkey, duck, goose, or guinea fowl kept for the purpose of egg production.
- ~~(d)~~(h) “Enclosure” means ~~any cage, crate, or other a structure (including what is commonly described as a “gestation crate” for pigs; a “veal crate” for calves; or a “battery cage” for egg laying hens)~~ used to confine a covered animal or animals.
- ~~(e)~~(i) “Farm” means the land, building, support facilities, and other equipment that are wholly or partially used for the commercial production of animals or animal products used for food or fiber; and does not include live animal markets, establishments at which mandatory inspection is provided under the Federal Meat Inspection Act, or official plants at which mandatory inspection is maintained under the Federal Egg Products Inspection Act.
- (j) “Farm owner or operator” means any person who owns or controls the operations of a farm.
- ~~(f)~~(k) “Fully extending ~~his or her~~ the animal’s limbs” means fully extending all limbs without touching the side of an enclosure, ~~including, in the case of egg-laying hens, fully spreading both wings without touching the side of an enclosure or other egg-laying hens or another animal.~~
- (l) “Liquid eggs” means eggs of an egg-laying hen broken from the shells, intended for human food, with the yolks and whites in their natural proportions, or with the yolks and whites separated, mixed, or mixed and strained. Liquid eggs do not include combination food products (including pancake mixes, cake mixes, cookies, pizzas, cookie dough, ice cream, or similar processed or prepared food products) that are comprised of more than liquid eggs, sugar, salt, water, seasoning, coloring, flavoring, preservatives, stabilizers, and similar food additives.
- ~~(g)~~(m) “Person” means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, or syndicate.

(h) “Pig during pregnancy” means any pregnant pig of the porcine species kept for the primary purpose of breeding.  
(n) “Pork meat” means meat, as defined in 3 CCR 900 as of August 2017, of a pig of the porcine species, intended for use as human food.

(o) “Sale” means a commercial sale by a business that sells any item covered by this chapter, but does not include any sale undertaken at an establishment at which mandatory inspection is provided under the Federal Meat Inspection Act, or any sale undertaken at an official plant at which mandatory inspection is maintained under the Federal Egg Products Inspection Act. For purposes of this section, a sale shall be deemed to occur at the location where the buyer takes physical possession of an item covered by section 25990 of this chapter.

(p) “Shell egg” means a whole egg of an egg-laying hen in its shell form, intended for use as human food.

(i)(q) “Turning around freely” means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure or another animal.

(r) “Uncooked” means requiring cooking prior to human consumption.

(s) “Usable floor space” means the total square footage of floor space provided to each covered animal, as calculated by dividing the total square footage of floor space provided to the animals in an enclosure by the number of animals in that enclosure. In the case of egg-laying hens, “usable floor space” shall include both ground space and elevated level flat platforms upon which hens can roost, but shall not include perches or ramps.

(t) “Veal meat” means meat, as defined in 3 CCR 900 as of August 2017, of a calf raised for veal intended for use as human food.

(u) “Whole pork meat” means any uncooked cut of pork (including bacon, ham, chop, ribs, riblet, loin, shank, leg, roast, brisket, steak, sirloin or cutlet) that is comprised entirely of pork meat, except for seasoning, curing agents, coloring, flavoring, preservatives and similar meat additives. Whole pork meat does not include combination food products (including soups, sandwiches, pizzas, hot dogs, or similar processed or prepared food products) that are comprised of more than pork meat, seasoning, curing agents, coloring, flavoring, preservatives, and similar meat additives.

(v) “Whole veal meat” means any uncooked cut of veal (including chop, ribs, riblet, loin, shank, leg, roast, brisket, steak, sirloin or cutlet) that is comprised entirely of veal meat, except for seasoning, curing agents, coloring, flavoring, preservatives, and similar meat additives. Whole veal meat does not include combination food products (including soups, sandwiches, pizzas, hot dogs, or similar processed or prepared food products) that are comprised of more than veal meat, seasoning, curing agents, coloring, flavoring, preservatives and similar meat additives.

**SECTION 5. SECTION 25992 OF THE CALIFORNIA HEALTH AND SAFETY CODE IS HEREBY AMENDED TO READ:**

This chapter shall not apply:

- (a) During ~~scientific or agricultural~~ medical research.
- (b) During examination, testing, individual treatment or operation for veterinary purposes.
- (c) During transportation.
- (d) During rodeo exhibitions, state or county fair exhibitions, 4-H programs, and similar exhibitions.
- (e) During the slaughter of a covered animal in accordance with the provisions of Chapter 6 (commencing with Section 19501) of Part 3 of Division 9 of the Food and Agricultural Code,



relating to humane methods of slaughter, and other applicable law and regulations.

(f) To a breeding pig during the ~~seven-day~~ five (5) day period prior to the breeding pig's expected date of giving birth, and any day that the breeding pig is nursing piglets.

(g) During temporary periods for animal husbandry purposes for no more than six (6) hours in any twenty-four (24) hour period, and no more than twenty-four (24) hours total in any thirty (30) day period.

**SECTION 6.** SECTION 25993 OF THE CALIFORNIA HEALTH AND SAFETY CODE IS HEREBY AMENDED TO READ:

(a) The California Department of Food and Agriculture and the California Department of Public Health shall jointly promulgate rules and regulations for the implementation of this Act by September 1, 2019.

(b) Any person who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment in the county jail for a period not to exceed 180 days or by both such fine and imprisonment. In addition, a violation of section 25990(b) of this chapter constitutes "unfair competition" as defined in Section 17200 of the Business and Professions Code and is punishable as prescribed in Chapter 5 (commencing with section 17200) of Part 2 of Division 7 of the Business and Professions Code.

(c) The provisions of this chapter relating to cruel confinement of covered animals and sale of products shall supersede any conflicting regulations, including conflicting regulations pursuant to the California Code of Regulations, Title 22, Division 2, Subdivision 6, Chapter 6.

**SECTION 7.** SECTION 25993.1 IS HEREBY ADDED TO THE CALIFORNIA HEALTH AND SAFETY CODE TO READ:

It shall be a defense to any action to enforce section 25990(b) of this chapter that a business owner or operator relied in good faith upon a written certification by the supplier that the whole veal meat, whole pork meat, shell eggs, or liquid eggs at issue was not derived from a covered animal who was confined in a cruel manner, or from the immediate offspring of a breeding pig who was confined in a cruel manner.

**SECTION 8.** This Act shall be amended only by a statute approved by a vote of four fifths of the members of both houses of the Legislature. Any amendment of this Act shall be consistent with and further the purposes of this Act.

**SECTION 9.** If any provision of this Act, or the application thereof to any person or circumstances, is held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications of this Act that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Act are severable.



October 18, 2017

RECEIVED

OCT 18 2017

Hon. Xavier Becerra  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Attention: Ms. Ashley Johansson  
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative (A.G. File No. 17-0026) that would impose new standards for confining certain farm animals.

### Background

***Agriculture Is a Major Industry in California.*** California leads the nation in agricultural production and exports. In 2015, livestock commodities produced in California—such as dairy products, meat, and eggs—generated \$12 billion in farm revenues. In addition, California imports some crops and livestock commodities, such as eggs and pork. The California Department of Food and Agriculture (CDFA) is charged with protecting and promoting agriculture, including animal health and food safety. Many of the department's activities are conducted in partnership with county agricultural commissioners.

***State Law Prohibits Cruelty to Animals.*** Under state law, any person who keeps an animal confined in an enclosed area is required to provide it with an adequate exercise area, and permit access to adequate shelter, food, and water. Depending upon the specific violation to these requirements, an individual could be found guilty of a misdemeanor or felony, either of which are punishable by a fine, imprisonment, or both.

***Farm Animal Production Practices Have Undergone Changes.*** There has been a growing public awareness about farm animal production methods, and how these methods affect the treatment of the animals. In particular, concerns have been expressed about some animal farming practices, including the housing of certain animals in confined spaces such as cages or other restrictive enclosures. In addition, some major food retailers and restaurant chains have announced that they are transitioning towards requiring that their suppliers keep animals confined in less restrictive spaces. For example, some major retailers and restaurant chains are moving towards only purchasing eggs from farmers who use "cage-free" housing systems for egg-laying hens. Partly in response to these concerns, various animal farming industries have developed guidelines and best practices aimed at improving the care and handling of farm animals and have made changes in their production methods.

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***Proposition 2 (2008) Established Confinement Standards for Certain Farm Animals.***

Effective January 1, 2015, Proposition 2 of 2008 generally prohibits the confinement on a California farm of pregnant pigs, calves raised for veal, and egg-laying hens in a manner that does not allow them to turn around freely, lie down, stand up, and fully extend their limbs. Under Proposition 2, any person who violates this law is guilty of a misdemeanor, punishable by a fine, imprisonment, or both.

***Legislation Prohibits Sale of Shelled Eggs That Do Not Meet Production Standards.***

Effective January 1, 2015, state law prohibits the sale in California of *shelled* eggs for human consumption produced on farms—including out-of-state farms—that do not comply with California’s animal care standards for egg-laying hens. Any person who violates this law is guilty of a misdemeanor punishable by a fine, imprisonment, or both. The legislation does not cover *liquid* eggs, which generally consist of egg yolks and whites that have been broken from their shells, processed, and repackaged for human consumption.

**Proposal**

This measure phases in new requirements over the next several years that increase the minimum size of restrictive enclosures used by California farmers to confine egg-laying hens, breeding pigs, and calves raised for veal. In addition, the measure prohibits businesses in California from buying or selling liquid eggs, pork, and veal that were produced from animals confined in more restrictive enclosures that would not comply with the measure’s requirements. This prohibition applies to both in-state and out-of-state production of these livestock commodities. Violation of the measure would be a misdemeanor punishable by a fine, imprisonment, or both. The measure also requires CDFA and the California Department of Public Health to issue regulations to implement its provisions.

**Fiscal Effects**

Compared to current practice most commonly used by California farmers in the affected industries, this measure would require more space and/or alternate methods for housing pregnant pigs, calves raised for veal, and egg-laying hens. As a result, this measure would increase production costs for some of these farmers. To the extent that these higher production costs cause some farmers to exit the business or otherwise reduce overall production and profitability, there could be reduced state and local tax revenues. The magnitude of this effect would likely not exceed the low millions of dollars annually.

The CDFA would likely require additional resources to enforce the provisions of the measure that (1) require restrictive enclosures for pregnant pigs, calves, and egg-laying hens to meet specified requirements, and (2) prohibit the sale of pork, veal, and liquid eggs produced by farms that do not comply with the measure’s requirements. These enforcement costs could range up to ten million dollars annually.

***Summary of Fiscal Effects.*** The measure would have the following fiscal effects:

- Potential decrease in state and local tax revenues from farm businesses, likely not to exceed the low millions of dollars annually.

- Potential state costs ranging up to ten million dollars annually to enforce the measure.

Sincerely,

for Arthur M. Gild  
Mac Taylor  
Legislative Analyst

for Kari Knopke  
Michael Cohen  
Director of Finance